

New Guidance for Safe Management of Household Pharmaceuticals


The Wisconsin Department of Natural Resources (DNR) has developed an enforcement discretion memorandum that conditionally exempts household pharmaceutical waste collected at household pharmaceutical waste collection facilities or events, or that are collected, confiscated or otherwise taken into possession by law enforcement officials from the state's hazardous waste and solid waste rules. The memorandum sets out management standards that must be met and collected household pharmaceuticals not managed in accordance with the standards will be subject to all applicable requirements under Wisconsin solid and hazardous waste rules.

The United States Environmental Protection Agency excludes all household waste from hazardous waste regulation. In exercising the enforcement discretion Wisconsin's hazardous waste program will not become less stringent than the counterpart federal program.

The enforcement discretion memorandum was approved on June 27, 2006 and will remain in effect for one year from this date. The DNR will evaluate the impacts of exercising the enforcement discretion after one year. Based on the findings, the memorandum will be withdrawn or the appropriate rule revisions will be initiated, whereupon the enforcement discretion may be extended for additional two year periods until the revised rules are in effect.

DATE: June 12, 2006

TO: Al Shea – AD/5

FROM:  Sue Bangert – WA/3

SUBJECT: Enforcement Discretion – Hazardous Waste and Solid Waste Requirements Pertaining to Collected Household Pharmaceutical Waste

ACTION

The Waste and Materials Management Program would like to encourage the safe collection and management of all household pharmaceutical waste. Accordingly, the Department should exercise discretion and refrain from enforcing hazardous waste requirements pertaining to pharmaceuticals that are collected at household pharmaceutical waste collection facilities or events, or that are collected, confiscated or otherwise taken into possession by law enforcement officials.

Any household pharmaceutical waste that is excluded from hazardous waste regulation under this memo would still be subject to solid waste regulation. As such, the Department should also exercise discretion in enforcing solid waste requirements pertaining to pharmaceuticals that are collected at household pharmaceutical waste collection facilities or events, or that are collected, confiscated or otherwise taken into possession by law enforcement officials.

Enforcement discretion for the requirements of the NR 500 and NR 600 series' may be exercised if the following management standards are met:

1. Controlled substances must be managed according to DEA requirements.
2. Reasonable precautions must be taken to prevent theft of or accidental exposure to collected household pharmaceuticals.
3. Collected household pharmaceuticals must be collected, stored, transported and managed in a safe and nuisance free manner and to prevent releases to the environment. Standards necessary to ensure this include, but are not limited to, the following:
 - a. Collected household pharmaceuticals may not be disposed in a publicly owned treatment works or other wastewater treatment facility.
 - b. To the extent possible, and with due consideration to the compatibility of the waste stream to a particular management method, pharmaceuticals should be incinerated or otherwise destroyed, so as to render them unrecoverable in the future and in order to minimize their potential impact upon the environment.
 - c. Collected household pharmaceuticals that are destined for disposal at a licensed solid waste landfill must be managed according to ch. NR 668, Land Disposal Restrictions.
 - d. Operators of household pharmaceutical collection facilities and events must ensure that the final disposition/destruction of all collected household pharmaceuticals can be ascertained.

The exercise of enforcement discretion described in this memo will provide relief from the solid and hazardous waste requirements in order to encourage the safe and controlled management of household pharmaceuticals. Collected household pharmaceuticals not managed in accordance with the above conditions will be subject to all applicable requirements under Wisconsin solid and hazardous waste rules.

Exercising this enforcement discretion will not jeopardize Wisconsin's hazardous waste program authorization. The US EPA excludes all household waste from hazardous waste regulation; therefore, Wisconsin's hazardous waste program will not become less stringent than the counterpart federal program.

BACKGROUND

The traditional methods for managing household pharmaceutical waste (i.e., flushing them down the toilet or throwing them in the trash) have raised concerns about the potential for these substances to accumulate in surface and ground water and to otherwise harm human health and the environment. The risk of harm can be reduced by encouraging the collection of household pharmaceutical waste for better management.

Some pharmaceuticals, so-called controlled substances, are strictly regulated by the U.S. Drug Enforcement Administration (DEA). After controlled substances are dispensed by a pharmacy, only law enforcement officials are allowed to accept them for management, including when they are brought to household collection events. Law enforcement officials must maintain custody of the controlled substances at all times, ending with witnessed destruction. As a result, law enforcement officers participating in household pharmaceutical waste collections will likely want to take the collected household controlled substances back to their offices to securely store them along with other, confiscated controlled substances prior to the witnessed destruction.

Under the hazardous waste rules, NR 600 series, Wis. Adm. Code, the Department regulates collected household waste if the hazardous waste in this waste stream is separated from other household solid waste and managed at a household hazardous waste collection facility. This is more stringent than the counterpart federal regulations, which completely exempt household waste from hazardous waste regulation. Many other states follow the federal regulations and completely exempt household waste from hazardous waste regulation.

Only a relatively small proportion of discarded household pharmaceuticals would actually be subject to regulation as a hazardous waste in Wisconsin. However, because household pharmaceutical waste is very diverse, and because of the time and resources required to determine which of it is hazardous waste, collectors or collection events may be inclined to classify all of the pharmaceuticals they take in as hazardous waste. This creates other potential problems that could discourage collection altogether, including increasing costs and limiting treatment or disposal options (there are no commercial hazardous waste landfills or incinerators in Wisconsin).

Requirements under the solid waste rules, NR 500 series, Wis. Adm. Code might also discourage the collection of household pharmaceutical waste, including the following for solid waste storage facilities: initial site inspection requirements, location criteria, obtaining an operating license, and certifying compliance and/or paying compliance inspection fees.

Under the Wisconsin hazardous waste rules, unless the collected household controlled substances are screened to exclude those that are also hazardous waste, the law enforcement offices to which these are taken would be regulated as *permanent household hazardous waste collection facilities*. As a result,

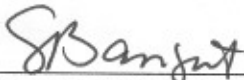
household pharmaceutical waste collections may be discouraged by the inability or reluctance of law enforcement agencies to comply with hazardous waste requirements.

DURATION

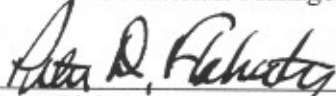
This memo remains in effect for one year from the date it is approved. The impacts of this exercise of discretion to not enforce hazardous and solid waste rules will be evaluated after one year and, based on the findings, this memo will be withdrawn or the appropriate rule revisions will be initiated, at which point it may be extended for additional two year periods until the revised rules are in effect. The Department may modify or withdraw this memo, in whole or in part, at any time.

Approved:

Date:


Suzanne Bangert, Bureau Director
Waste and Materials Management

6/18/06


Peter Flaherty, Hazardous Waste Program Attorney
Bureau of Legal Services

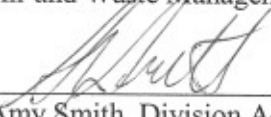
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